

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	Confirmation No.: 5849
J. Robert Hitchings et al.)	
)	Group Art Unit: 3693
Application No.: 09/828,616)	
)	
Filed: April 6, 2001)	Examiner: D.S. Felten
)	
For: LIKE KIND EXCHANGE)	
SYSTEM AND METHOD)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

INTERVIEW SUMMARY

Applicant thanks for the Examiner for making himself available to discuss the present application on October 30, 2007. During the Interview Applicant's representative, Andrew Baca, and the Examiner discussed: the differences between the concept of the present invention and Himmelstein; the rejection of claims 1-37 under 35 U.S.C. § 112, second paragraph; and the rejection of independent claims 1-3 under 35 U.S.C. § 102(b).

During the interview, Applicant's representative and the Examiner came to several understandings. First, notwithstanding the claim terms, there are technical differences between Himmelstein and the present invention, for instance Himmelstein is not directed specifically to like-kind-exchanges, and also the manner that the present invention selects groups of assets (relinquished and acquired) to achieve the tax benefit of a like-kind-exchange.

As an outgrowth of the discussion of the conceptual differences between Himmelstein and the present invention, the Examiner agreed that the rejection under


102(b) was inappropriate, although the Examiner did state that a rejection under 103(a) may be proper and forthcoming.

Turning to the explicit language of the claims. The Examiner questioned whether claim 1 recited the manner that the present invention selects groups of assets (relinquished and acquired) to achieve the tax benefit of a like-kind-exchange. Specifically, the Examiner questioned whether the term 'identify' is sufficiently technical, and also whether the terms "relinquished" and "acquired" fully describe the type of assets exchanged. As a result, Applicant's representative and the Examiner agreed that the independent claims should be amended to better clarify and define the invention.

Finally, Applicant's representative and the Examiner discussed the rejection under 112, second paragraph, and agreed that the "wherein" clauses, in the present case, are not optionally recited.

In sum, Applicant's representative and the Examiner agreed that there are technical differences between the present invention and Himmelstein, that the rejections under 102(b) and 112, second paragraph, are improper, and that the independent claims should be amended to clarify and further define the invention in light of 103 rejections likely brought in future office actions.

Applicant again thanks the Examiner for the cordial and productive interview, and respectively submits that the Supplemental Amendment is filed concurrently with this Summary should address the issues discussed on October 30, 2007.

Respectfully Submitted by:  , Dated: November 20, 2007
Andrew J. Baca
Reg. # 60,887

GOODWIN PROCTER LLP
901 New York Avenue, NW
Washington, DC 20001
Tel. (202) 346-4000